



U.S. Department of Justice

Antitrust Division

*City Center Building
1401 H Street, NW
Washington, DC 20530*

September 13, 1999

Mr. Peter Anderson
RecycleWorlds Consulting Corp.
4513 Vernon Blvd.
Suite 15
Madison, Wisconsin 53705-4964

Re: *Comment on Proposed Final Judgment in United States, State of Ohio, et al. v. USA Waste Services, Inc., Waste Management, Inc., et al., Civil No. 98-1616 (N.D. Ohio, filed July 16, 1998)*

Dear Mr. Anderson:

This letter responds to your written comment on the proposed Final Judgment in the above case. The Complaint in this case charged, among other things, that USA Waste's acquisition of Waste Management would substantially lessen competition in the disposal of municipal solid waste in 16 markets throughout the country. The proposed Judgment, now pending in federal district court in Cleveland, Ohio, would settle the case by, *inter alia*, requiring that the defendants divest waste disposal facilities that serve each of the disposal markets alleged in the Complaint. In a series of transactions in August and December 1998, and in January and February 1999, the United States approved, under the terms of the Judgment, a sale to Republic Services, Inc. ("Republic") of all assets that had been ordered divested (except the Baltimore area disposal assets). The United States subsequently approved a sale to Browning Ferris Industries, Inc. ("BFI") of the Baltimore area disposal assets.

In your letter, you questioned whether Republic or any other major waste collection and disposal firm should be allowed to acquire the assets ordered divested under the proposed decree. As you see it, a sale to a large national or regional firm is undesirable because such firms would cooperate with the defendants and other market participants in raising prices to customers after a divestiture. Competition would be better served if the waste collection and disposal assets under the decree were sold to a municipal agency or a small independent firm, entities which, you contend, would have a greater incentive to vigorously compete against the defendants' waste collection and disposal operations.

The United States, however, does not have any evidence that would lead it categorically to conclude that selling the assets under the Judgment to a large national waste collection and disposal firm, such as Republic, would be a less competitive alternative than a sale to municipal agency or small independent firm, or that large waste companies are more prone to collude, when given the opportunity, than small independent firms. Also, it is possible that large waste collection and disposal companies enjoy some competitive advantages, such as better access to capital and more extensive experience, that would make them in some respects more formidable competitors than small independent firms. Thus, United States did not object to Republic's purchase of most of the waste collection and disposal assets that the defendants divested under the proposed Judgment. And since BFI did not compete in the disposal of waste in the Baltimore market, the United States saw no reason to prevent BFI's acquisition of the transfer station disposal capacity divested by the defendants under the proposed Judgment.

Thank you for bringing your concerns to our attention; we hope this information will help alleviate them. Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. §16(d), a copy of your comment and this response will be published in the Federal Register and filed with the Court.

Sincerely yours,

J. Robert Kramer II
Chief
Litigation II Section